REGIONAL FOREST OFFICE
SOUTHERN CIRCLE
WORKING PLANS PARTY

119

REGIONAL FOREST OFFICE
Invd. R-gr. No. 119
Date 21/12/49
WORKING PLANS PARTY

MISCELLANEOUS.

I.—Acts and Regulations.

1. It is a rule that, in the absence of provision to the contrary, an Act which is repealed is considered as if it had never existed. But transactions past and closed are always excepted from this rule (Maxwell on the Interpretation of Statutes, 377).

"Nothing but clear and express words will give a retrospective effect to a statute, and however much the present tense may be used in it, it must be construed as applying only to future matters," and "every statute which takes away or impairs vested rights acquired under existing laws * * * or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the Legislature, to be intended not to have a retrospective operation," (Maxwell on the Interpretation of Statutes, 191, 192). (L. R. No. 54, dated 17th January 1876: *vide* G. R. No. 515, dated 24th idem.)

2. The recognized principle is that when an Act repealing, in whole or in part, a former Act, is itself repealed, the last repeal does not revive the Act or provisions before repealed, unless words be added reviving them. (L. R. No. 617, dated 21st May 1881; *vide* G. R. No. 3224, dated 4th June 1881.)

3. Acts which in terms extend to the whole of British India, necessarily apply to the Scheduled Districts as well as to the Regulation Districts, and no notification under the Scheduled Districts Act is necessary to give them operation in those districts. (L. R. No. 1329, dated 3rd December 1877: *vide* G. R. No. 7299, dated 8th December 1877.)

The Scheduled Districts Act cannot impose any restriction on the powers of the Legislature to make any Act it passes applicable to the Scheduled Districts either directly or indirectly as it thinks fit. (Adv. Gen. No. 59, dated 22nd August 1878: *vide* G. R. No. 4430, dated 29th idem.)

4. Marginal notes are merely a guide to the contents of the sections of an enactment; they are not a part of the law. (L. R. No. 124, dated 26th January 1884: *vide* G. R. No. 1422, dated 14th February 1884.)

5. It is a well established principle in the construction of statutes that private rights cannot be taken away or even be hampered by mere implication from the languague used in a statute. In other words, statutes which encroach on the rights of the subject, receive a strict construction. (G. I., H. D., No. 45, dated 11th January 1884: *vide* G. R. No. 8001, dated 9th October 1884.)

6. An enactment is not to be construed by the debates which took place in the legislative body, or even by the forms in which it appeared while under deliberation, but by its clear grammati-

Maxwell on Interpretation of Statutes, p. 22; I. L. R., 8 Bom., 247; I. L. R., 11 Bom., 1 and 24.

cal meaning. Otherwise an illustration used in the course of debate to meet a particular argument might defeat the object of the Legislature. (L. R. No. 1384, dated 19th October 1889: *vide* G. R. No. 8301, dated 31st idem.)

7. The Governor General in Council is pleased to apply the Revenue Recovery Act I of 1890 to all territories in India, which are under the administration of the Governor General in Council, but which are not part of British India, including the territories for the time being administered by the Agent to the Governor General in Beluchistan as such Agent, and to direct that an arrear of land revenue accruing in any part of British India, or a sum recoverable as such an arrear and payable to a Collector or other public officer, or a local authority, in any part of British India, may be recovered in any of those territories under the said Act as hereby applied. (G. I., For. Dept. Notn.* No. 1415-I, dated 30th April 1890, republished in the *B. G. G.* of 3rd December 1891: *vide* G. R. No. 8742, dated 17th idem.)

8. The publication of the vernacular versions of draft rules under the provisions of legislative enactments is far more important than that of the English versions. If the publication of the proposed rules, and invitation of criticisms from the people affected, are to be of any practical value, means must be taken for putting the proposed rules in an intelligible form before the communities concerned. The translations should be posted in village chávdis or in temples. But as the process is necessarily a slow one, it seems advisable to allow at least two months after the date on which the printed translations are expected to reach the Collectors, to enable the translations to come to the notice of the persons interested and to furnish time to the latter to submit to Government any objections they may entertain. The publication of the proposed rules in native newspapers need not, however, be discontinued, as though these publications may not be read by the rank and file of cultivators, they are read by persons of higher class and education who, too, may have an interest in the question. (G. R. No. 471, dated 22nd January 1892.)

II.—CONTRACTS.

1. Whenever additional special provisions or contracts of a special nature are to be entered into, the contract should be submitted, before execution, to Government, who will take such steps as may be necessary to have it framed in a legal manner. (G. R. No. 4691, dated 31st August 1874.)

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* In this Notification by "territories in India, which are under the administration of Governor General in Council, but are not part of British India" is meant territories over which the British Government has jurisdiction in its own right by delegation, cession or other lawful means, such as Civil Stations, *e.g.*, Kolhápur, Wadhwán and Sádra, Cantonments, *e.g.*, Baroda and Deesa, and Railway lands in Native States. (G. R., P. D., No. 5795, dated 18th September 1894, and G. R. No. 8116, dated 2nd October 1894.)

2. The following three forms of building contracts were sanctioned by Government Resolution No. 3140, dated 14th June 1879. Forms 1 and 2 are intended for use by officers of the Revenue and other Departments, who get small works executed without reference to the Public Works Department. No. 1 would be useful for works of the smallest kind and No. 2 for works of somewhat greater importance, say when the cost is in excess of Rs. 500. The principal difference between the two is that under the former the contractor gives security for the due execution of his contract, whereas under the latter he is required to deposit money as a guarantee of his fulfilment of his undertaking. Form No. 1 may, therefore, be used in every case in which a contractor is required to furnish security in lieu of leaving a deposit; but where the cost of the work is considerable it will always be advisable to use the Form No. 2 and to require a deposit.

Form No. 3 is meant for works of some magnitude, and it is expressly drafted for use in the Local Fund Department only, as all such works which are not executed by that Department are carried out by the Public Works Department, which has contract forms of its own. In this form an endeavour has been made to include every important condition which is ever likely to be recovered. Some of these will, on occasions perhaps, be found unsuitable. If so, they can be omitted, but for large works the stipulations should be very full and precise, and great care ought to be taken to see both that no important clause is left out and also that nothing is inserted in the annexure contradictory of anything in the contract.

Form No. 3 should always be executed in English. Forms Nos. 1 and 2 will generally have to be executed in the vernaculars.

No. 1.

AN AGREEMENT made the day of in the year 18

between

(hereinafter styled the Contractor) and

(hereinafter styled the sureties) of the one part and *the Secretary of State for India in Council* of the other part:

WHEREAS the said Contractor has undertaken to execute certain work for the (O*) and the said (O) has accepted his offer upon the terms hereinafter expressed;

*"O" signifies the local officer who gets the work executed.

THIS AGREEMENT WITNESSETH that in consideration of the sum of Rs. (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor doth hereby, for himself, his heirs, executors and administrators, agree with the said Secretary of State, his successors and assigns, in manner following, that is to say:

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish the work set forth in the schedule hereunder written in strict accordance with the plan* and specification hereunto annexed and marked A;

2. That the stone, bricks, timber, and other materials to be provided and used by the Contractor in executing the said work shall be of the quality and description mentioned in the said specification;

3. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the said (O), and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order; and in default thereof will pay to the said Secretary of State in Council for every day's delay after the said time during which the said work may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rs. , and that the amount of such sums may be deducted by the Secretary of State from any money payable to the Contractor under this or any other contract, as if the same had been money paid to the Contractor on account;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification, and observe the terms of the said specification, and fulfil his part of this contract to the entire satisfaction of the said (O);

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the said (O), all such additions to, enlargements and alterations of, and deviations from, the said work and specification as the said (O) may from time to time during the progress of the work direct in writing; and that if the said (O) shall certify that such additions, enlargements, alterations or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been, or may be at the same time ordered, then that the Contractor shall be paid by the said Secretary of State such extra sum or sums as the said (O) sh ceallrtify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-price: *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the said (O) shall certify to be just on account of any alterations or diminution of the said work;

6. That if by reason of any of such additions to or enlargements of the work, or from any other just cause, the Contractor shall, in the opinion of the said (O), have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the said (O) to grant from time to time by

* These words must vary in this and in the subsequent clauses with the nature of the annexure. All or any of the following words may be substituted for them, when necessary, viz., "plans, elevations, sections, specification and schedule of rates."

writing under his hand such extension of the time named in Clause 3 for the completion of the work and the clearing away of unused materials and rubbish as to him shall seem reasonable, and the said Clause 3 shall thereupon be read and understood as if the extended time granted by the said (O) were the period therein mentioned for the said purposes;

7. That no deviation from the said plan or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the said (O) authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously by the Contractor;

8. That the said (O) may at any time, by notice in writing to the Contractor, direct that the said work, or any part thereof, or any ordered additions to, or enlargements, or alterations of, or deviations from the said work be abandoned or stopped by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor; and the Contractor shall be entitled to receive from the said Secretary of State so much money as the work up to such time performed, and the materials up to such time supplied or that may be then on the ground, may be certified to be worth by the said (O), but the Contractor shall not be entitled to any compensation for any profit which he may lose in consequence of such abandonment or stoppage;

9. That the Contractor shall personally superintend the execution of the work and shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the said (O);

10. That the said (O) may reject any materials which he considers unfit to be used, or of a quality inferior to that mentioned in the specification, and may require any work to be undone and re-done which in his opinion has been done imperfectly or with improper materials;

11. That if during the progress of the work any defect shall be discovered, or if anything shall be found to have been done not according to the specification or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally; and that if the Contractor shall not remove such defective work and replace the same within a reasonable time after receipt of notice so to do from the said (O), the said (O) may employ any other builder, or workmen to remove such defective work and replace the same, and the Contractor shall pay the cost thereof, and the said Secretary of State may deduct the same from the monies (if any) that may be, or become payable to the Contractor under this, or any other contract, or

otherwise recover the same from the Contractor; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the said (O), by any other builder or workmen, and the cost thereof shall be paid by and be recoverable from the Contractor;

12. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely, or proper execution of the said work, or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plan and specification and with the orders of the said (O), or if the Contractor shall in any manner neglect, or fail or become unable to carry on, or proceed with the work as directed by the said (O), the said (O) may get the work done at the cost of the Contractor by any other builder or workmen the said (O) shall think fit, and the Contractor and every person claiming through, or under him shall thereupon forfeit all claim to further payment under this contract except to such balance (if any) as shall remain out of the said contract-price after the completion of the work by such other builder or workmen; and the Contractor or any such person as aforesaid shall not be at liberty without the consent of the said (O) to remove any scaffolding, tackle or plank from the premises until the same shall cease to be required;

13. That the said (O) shall be the sole judge upon all matters relating to the meaning and intention of the said plan and specification and of this contract respectively, and his decision thereon shall be final and conclusive.

* And in consideration of the premises, the said Secretary of State in Council doth hereby agree with the said Contractor that if he shall well and duly perform his contract, he will pay the said sum of Rs. in manner following, that is to say, the sum of Rs. , part thereof at the completion of , the sum of Rupees , other part thereof, at the completion of and the sum of Rupees , in full for the work, when completely finished to the satisfaction of the said (O).

And whereas the Contractor has been required to furnish security for the due performance by him

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* *Note.*—The following may be substituted for this para. when necessary :—

"And in consideration of the premises the said Secretary of State in Council hereby agrees with the said Contractor that if he shall well and duly perform his contract, he will pay the said sum of Rs. in manner following, that is to say, every whilst the said work shall be in progress, per cent. of such amount as the said (O) shall certify to be the proportionate value of the work done and approved during the then past , and the balance on the completion of the said work to the satisfaction of the said (O)."

of the stipulations of this contract, the said sureties do hereby, at the request of the Contractor, agree with the said Secretary of State in Council that if the Contractor shall fail to perform any of the agreements and stipulations in the above written contract contained, and on his part to be observed and performed, the said sureties shall forfeit to the Secretary of State, his successors and assigns, the sum of Rs. , which sum may be recovered from them, and each of them, and each of their heirs, executors and administrators as if it were an arrear of land revenue.

In Witness whereof the said Contractor hath hereunto set his hand, and each of the said sureties hath hereunto set his hand, and*

hath, by order of the Governor in Council of Bombay, also hereunto set his hand on behalf of the said Secretary of State in Council the day and year first above written.

* The name and signature of the officer duly empowered by the Government of India to sign such contract to be inserted here.

Signed by
in the presence of
_____
_____

Signed (Contractor)
(Sureties)
*(Officer)

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for.)

(Signed) (Contractor).
(Officer).

A. ANNEXURE TO AGREEMENT

between

and the Secretary of State for India in Council, dated the day of in the year 18 .

Plan and Specification of the buildings referred to in the said Agreement:

(The Plan should be as accurate as possible; the Specification should fully set forth the measurements and the names and quality of the materials which it is intended should be used.)

(Signed) (Contractor).
(Officer).

No. 2.

AN AGREEMENT made the day of in the year 18 .

Between

hereinafter styled the Contractor of the one part and

the Secretary of State for India in Council of the other part.

WHEREAS the said Contractor has undertaken to execute certain work for the (O*) and the said (O) has accepted his offer upon the terms hereinafter expressed; and as part of such terms the sum of Rs. has been deposited with the said as security for the due performance of this contract:

* (O) signifies the local officer who has the work executed.

THIS AGREEMENT WITNESSETH that in consideration of the sum of Rs. , (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor doth hereby, for himself, his heirs, executors and administrators, agree with the said Secretary of State in Council, his successors and assigns, in manner following :—

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish the work set forth in the schedule hereunder written in strict accordance with the plan† and specification hereunto annexed and marked A;

† These words must vary in this and in subsequent clauses with the nature of the annexure. All or any of the following words may be substituted for them, when necessary, viz, "plans, elevations, sections, specifications, and schedule of rates."

2. That the stone, bricks, timber and other materials to be provided and used by the Contractor in executing the said work shall be of the quality and description mentioned in the said specification;

3. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the said (O), and will execute the various parts and portions thereof within the respective times fixed in that behalf by the specification, and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order; and in default thereof will pay to the said Secretary of State in Council for every day's delay after the respective times aforesaid during which any of the said parts, or portions of the said work may remain uncompleted, or the said work may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rupees , and that the amount of such sums may be deducted by the said Secretary of State, at his option, from the said deposited sum of Rupees , or from any money payable to the Contractor under this, or any other contract, as if the same had been money paid to the Contractor on account;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification and observe the terms of the said specification and fulfil his part of this contract to the entire satisfaction of the said (O);

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the said (O), all such additions to, enlargements and alteration of, and deviations from the said work and specification as the said (O) may from time to time during the progress of the work direct in writing,

and that if the said (O) shall certify that such additions, enlargements, alterations or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been or may be at the same time ordered, then that the Contractor shall be paid by the said Secretary of State such extra sum or sums as the said

shall certify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-price: *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the said (O) shall certify to be just on account of any alterations or diminution of the said work;

6. That if by reason of any such additions to or enlargements of, the work, or from any other just cause, the Contractor shall, in the opinion of the said (O), have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the said (O) to grant from time to time by writing under his hand such extension of the time named in Clause 3 for the completion of the work and the clearing away of unused materials and rubbish as to him shall seem reasonable, and the said Clause 3 shall thereupon be read and understood as if the extended time granted by the said (O) were the period therein mentioned for the said purposes.

7. That no deviation from the said plan or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the said (O) authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously by the Contractor;

8. That the said (O) may at any time by notice in writing to the Contractor direct that the said work, or any part thereof, or any ordered additions to, or enlargements or alterations of, or deviation from the said work be abandoned or stopped by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor, and the Contractor shall be entitled to receive from the said Secretary of State so much money as the work up to such time performed and the materials up to such time supplied, or that may be then on the ground, may be certified to be worth by the said (O), but the Contractor shall not be entitled to any compensation for any profit which he may lose in consequence of such abandonment or stoppage;

9. That the Contractor shall personally superintend the execution of the work and shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the said (O);

10. That the Contractor shall keep on the premises a competent foreman and all notices and orders for the Contractor may be given to such foreman, or to any person who from time to time may appear to be the foreman of the work, and if either the foreman

or any of the workmen employed shall be considered by the said (O) incompetent or shall misbehave himself he shall be discharged and may be excluded from the premises;

11. That the said (O) may reject any materials which he considers unfit to be used, or of a quality inferior to that mentioned in the specification, and may require any work to be undone and re-done which in his opinion has been done imperfectly or with improper materials;

12. That if during the progress of the work any defect shall be discovered, or if any thing shall be found to have been done not according to the specification, or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally; and that if the Contractor shall not remove such defective work or replace the same, within a reasonable time after receipt of notice so to do from the said (O), the said (O) may employ any other builder or workmen to remove such defective work and replace the same, and the Contractor shall pay the cost thereof, and the said Secretary of State may deduct the same from the said deposited sum of Rs. , or from the monies (if any) that may be or become payable to the Contractor under this or any other contract, or otherwise recover the same from the Contractor; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the said (O), by any other builder or workmen, and the cost thereof shall be paid by the Contractor and may be deducted from the deposited sum of Rs. or otherwise recovered from him: *Provided* that in any case it shall be lawful for the said (O) instead of requiring any such defective work as aforesaid to be removed and replaced, to permit the same to remain, and to reduce the sum payable to the Contractor under this contract by such an amount as in his opinion shall be equivalent to the difference in value between the work as it should have been and as if has been executed or to retain such amount from the deposited sum of Rs. ;

13. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely or proper execution of the said work or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plan and specification and with the orders of the said (O), or if the Contractor shall in any manner neglect, or fail, or become unable to carry on or proceed with the work as directed by the said (O), the said (O) may get the work done at the cost of the Contractor by any other builder or workmen the said (O) shall think fit, and the Contractor and every person claiming through or under him shall thereupon forfeit all claim to have the said deposit-

ed sum of Rs. returned to him and also to any further payment under this contract except to such balance (if any) as shall remain out of the said sum of Rs. and the said contract-price respectively after the completion of the work by such other builder or workmen: *Provided* that the said (O) shall have the option of purchasing at the market value thereof, which shall be determined by the said (O), all the materials, implements and machinery belonging to the Contractor deposited, placed or erected on or in the vicinity of the work, or of purchasing the materials at the market value thereof, and of using the implements and machinery on the payment of such sum for the hire of the same as the said (O) shall deem reasonable, and the Contractor, or any such person as aforesaid, shall not be at liberty, without the written consent of the said (O), to remove such materials, implements, or machinery or any scaffolding, tackle, or plank from the premises until the same shall cease to be required;

14. That the said (O) shall retain the said deposited sum of Rs. for a period of after the completion of the work and may make all the deductions therefrom herein mentioned and may also deduct therefrom all other sums which shall become due from or payable by the Contractor under this contract;

15. That the said (O) shall be the sole judge upon all matters relating to the meaning and intention of the said plan and specification and of this contract respectively and his decision thereon shall be final and conclusive.

* And in consideration of the premises the said Secretary of State in Council doth hereby agree with the said Contractor that if he shall well and duly perform his contract he will pay the said sum of Rs. in manner following, that is to say, the sum of Rs. part thereof, at the completion of , the sum of Rs. , other part thereof, at the completion of , and the sum of Rs. , in full for the work when completely finished to the satisfaction of the said (O).

And for the due observance of the stipulations entered into by him the said Contractor doth hereby bind himself unto the said Secretary of State in Council in the penal sum of Rs.

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* *Note.*—The following may be substituted for this para. when necessary :—

"And in consideration of the premises the said Secretary of State in Council hereby agrees with the said Contractor that if he shall well and duly perfrom his contract he will pay the said sum of Rs. in manner following, that is to say, every whilst the said work shall be in progress, per cent. of such amount as the said (O) shall certify to be the proportionate value of the work done and approved during the then past , and the balance on the completion of the said work to the satisfaction of the said (O)."

In Witness whereof the said Contractor hath hereunto set his hand and the *

hath, by order of the Governor in Council of Bombay, also hereunto set his hand on behalf of the said Secretary of State in Council, the day and year first above written.

* The name and signature of the officer duly empowered by the Government of India to sign such contracts to be inserted here.

Signed and delivered by the above named in the presence of

(Signed) Contractor.

(Officer)

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for)

(Signed) (Contractor.)
(Officer.)

A. ANNEXURE TO AGREEMENT

between

and the Secretary of State for India in Council, dated the in the year 18 .

Plan and Description of the Buildings referred to in the said Agreement:

(The plan should be as accurate as possible; the description should fully set forth the measurements, and the names and quality of the materials which it is intended should be used.)

(Signed) (Contractor.)
(Officer.)

No. 3.

AN AGREEMENT made the day of in the year 18

between

(hereinafter styled the Contractor) of the one part and the *President of the Local Fund Committee* of the District of (hereinafter styled the President) of the other part:—

WHEREAS a tender made by the said Contractor for the performance of the work specified in the Plan and Specification hereunto attached (being part of the documents marked A) has been accepted by the President upon the terms hereinafter expressed, and as part of such terms the sum of Rs. has been deposited with the President as security for the due performance of this contract;

NOW THESE PRESENTS WITNESS that in pursuance of the said tender, and in consideration

of the prices set forth in the Schedule of Rates contained in the documents hereto annexed and marked A, amounting in all to the sum of Rs. (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor hereby agrees with the President in manner following (that is to say) :—

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish with the best materials of their respective kind the work set forth in the schedule hereunder written in strict accordance with the Plans, Elevations, Sections and Specification and Schedule of Rates hereunto annexed and collectively marked A, and with the regulations and instructions contained, or referred to therein;

2. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the President, and will execute the various parts and portions thereof within the respective times fixed in that behalf by the specification, and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order; and in default thereof will pay to the President for every day's delay (exclusive of Sundays) after the respective times aforesaid during which any of the said parts, or portions of the said work, may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rs. ; and that the amount of such sums may be deducted by the President, at his option, from the said deposited sum of Rs. , or from any money payable to the Contractor under this, or any other contract, as if the same had been money paid to the Contractor on account;

3. That no work under this contract shall be done on a Sunday save with the permission of the President;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification and observe the terms of the specification and fulfil his part of this contract to the entire satisfaction of the President;

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the President, all such additions to, enlargements and alterations of, and deviations from the said work and specification as the President may from time to time, during the progress of the work, direct in writing, and that if the President shall consider that such additions, enlargements, alterations, or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been or may be at the same time ordered, then that the Contractor shall receive such extra sum or sums as the President shall certify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-

price: *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the President shall certify to be just on account of any alterations or diminution of the said work;

6. That if by reason of any such additions to, or enlargements of the work, or from any other just cause, the Contractor shall, in the opinion of the President, have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the President to grant from time to time by writing under his hand such extension of time as to him shall seem reasonable without thereby prejudicing or in any way affecting the validity of this contract; and any and every such extension of time shall be deemed to be in full compensation and satisfaction for and in respect of any and every actual and probable loss or injury sustained or sustainable by the Contractor in the premises, and shall in like manner exonerate him from any claim or demand on the part of the President for or in respect of the delay occasioned by the cause and causes in respect of which any such extension of time shall have been made but not further or otherwise;

7. That no deviation from the said plans, elevations, sections or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the President authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously and solely for the satisfaction of the Contractor;

8. That the President may at any time by notice in writing to the Contractor order that the said work, or any part thereof, or any ordered additions to, enlargements or alterations of, or deviations from the said work be abandoned or stopped, either temporarily or permanently, by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor accordingly: *Provided* that the Contractor shall not be entitled to any compensation whatsoever on account of any temporary stoppage of the work, but if the work or any part thereof is abandoned, the Contractor shall receive such compensation as the President shall determine to be equivalent to the loss sustained by him in consequence of such abandonment, and provided that in determining such compensation no account shall be taken of any profit which the Contractor might lose in consequence of such abandonment;

9. That the Contractor shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the President; and shall personally * superintend the execution of the work;

10. That the Contractor shall keep on the premises a competent foreman, and all notices and orders for the Contractor may be given to such

* The following words may be substituted here, if desired:—"Either personally sup-

foreman, or to any person who from time to time may appear to be the foreman of the work, and if either the foreman or any of the workmen employed shall be considered by the President incompetent, or shall misbehave himself, he shall be discharged and may be excluded from the premises;

11. That the President may reject any materials which he considers of an inferior quality or unfit to be used on the work and also any implements or machinery which he considers unfit for use, and may require such rejected materials, implements and machinery to be removed from the premises by the Contractor to any distance not exceeding , and if the Contractor shall refuse or neglect so to remove such materials, implements and machinery for twenty-four hours after receipt of an order from the President directing such removal, then that the President may remove such materials, implements and machinery at the cost of the Contractor and deduct the expense of such removal from the said sum of Rs. so deposited by the Contractor as aforesaid, or from any monies payable to the Contractor under this or any other contract;

12. That the President may require any work to be undone and redone which has, in his opinion, been done imperfectly or with improper materials;

13. That if during the progress of the work any defect shall be discovered, or if any thing shall be found to have been done not in accordance with the said plans and specification, or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally; and that if the Contractor shall not remove such defective work and replace the same within a reasonable time after receipt of notice so to do from the President, the President may employ any other builder or workmen to remove such defective work and replace the same, and deduct the cost thereof from the said sum of Rs. , or any money that may be payable to the Contractor under this, or any other contract, or otherwise recover the same from the Contractor; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the President, by any other builder or workmen, and the cost thereof shall be paid by the Contractor and may be deducted from the said deposited sum of Rs. or be otherwise recovered by the President from him: *Provided* that in any case it shall be lawful for the President instead of requiring any such defective work as aforesaid to be removed and replaced to permit the same to remain and to reduce the sum payable to the Contractor under this contract by such an amount as, in his opinion, shall be equivalent to the difference in value between the work as it should have been and as it has been executed, or to retain such amount from the said deposited sum of Rs. ;

14. That the Contractor will at his own cost repair any injury and undertake any reconstruction at any time during the progress of the said work until its final completion to the satisfaction of the President, caused or rendered necessary by flood, storm, fire, tempest or any other accident or offence; and that if the Contractor shall neglect or refuse to do such repair or reconstruction within a reasonable time after notice so to do from the President, then the President may cause such repair or reconstruction to be done at the cost of the Contractor by any other builder or workmen and may deduct the cost thereof from the said deposited sum of Rs.
or from any monies payable by the President to the Contractor under this or any other contract;

15. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely or proper execution of the said work, or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plans, elevations, sections and specification and with the orders of the President, or if the Contractor shall in any manner neglect, or fail, or become unable to carry on or proceed with the work, as directed by the President, the President may get the work done at the cost of the Contractor by any other builder or workmen the President shall think fit, and the Contractor, and every person claiming through or under him, shall thereupon forfeit all claim to have the said deposited sum of Rs.
returned to him and also to any further payment under this contract except to such balance (if any) as shall remain out of the said sum of Rs.
and the said contract-price respectively after the completion of the work by such other builder, or workmen: *Provided* that the President shall have the option of purchasing at the market value thereof, which shall be determined by the President, all the materials, implements and machinery belonging to the Contractor deposited, placed or erected on or in the vicinity of the work, or of purchasing the materials at the market value thereof and of using the implements and machinery on payment of such sum for the hire of the same as the President shall deem reasonable, and the Contractor or any such person as aforesaid shall not be at liberty, without the written consent of the President, to remove such materials, implements or machinery or any scaffolding, tackle, or plank from the premises until the same shall cease to be required;

16. That the President shall retain the said deposited sum of Rs. for a period of after the completion of the said work and may make all the deductions therefrom herein mentioned and may also deduct therefrom all other sums which shall become due from or payable by the Contractor by virtue of this contract;

17. That the President shall be the sole judge upon all matters relating to the construction, incidents and consequences of the plans, elevations,

sections and the said specification and of this contract respectively, and his decision thereon shall be final and conclusive;

18. That it shall be competent to the President to appoint in writing any Government officer to exercise all or any of his powers under this agreement;

19. That in this agreement the word "Contractor" shall be deemed to include the Contractor, his heirs, executors, and administrators, and the word "President" shall be deemed to include the President, his successors and assigns.

And in consideration of the premises the President hereby agrees with the Contractor that if he shall well and duly perform his contract he will pay the said sum of Rs. in the manner following, that is to say in monthly instalments during the progress of the work, each instalment to be equal to per cent. of such amount as shall be certified by the President to be the proportionate value of the work done and approved during the then past month,* and the balance on the completion of the work to the satisfaction of the President.

In Witness whereof the parties hereto have hereunto set their hands the day and year first above written.

Signed and delivered by the abovenamed (Signed)

in the presence of (Contractor.)

(President.)

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for.)

(Signed)

(Contractor.)

(President.)

3. A list of persons declared ineligible to take up Government contracts, with space to add other names when necessary, should be hung up in every Mámlatdár's kacheri, and in the Huzúr Deputy Collector's office, and a similar list should also be kept in the Collector's and his Assistants' offices, and it should invariably be consulted whenever the letting of a contract is under consideration. (G. R. No. 868, dated 11th February 1881.)

* *Note.*—The following may be inserted here, if desired:—

"After deducting the monies, if any, already paid on account of the materials employed in the said work, added to per cent. of such amount as shall be so certified to be the value of the materials brought during the said month for use, but not yet used, on the said work."

(G. R. No. 3140, dated 14th June 1879)

4. The Legal Remembrancer's opinion,* which is embodied in Government Resolution, Judicial Department, No. 6671, of 24th November 1874, dealt with certain contracts which were clearly opposed to public policy and humanity.

In the case of "Salkhats" in the Khándesh District it is evident that they are frequently free from any objections on the score of public policy or humanity, and are not void.

† Fraudulent breaches of contract by workmen.

The contracts to which the provisions of Act† XIII of 1859 are applicable must be deemed to be only such which a Civil Court would enforce under the provisions of the Indian Contract Act, 1872.

In every case of the kind which comes before him the Magistrate should, before taking proceedings under Act XIII of 1859, consider whether the contract is one which can be legally enforced. (L. R. No. 1467, dated 13th December 1881; *vide* G. R. No. 7772, dated 21st idem.)

III.—OFFICIAL ETIQUETTE.

1. The following Notification of the Government of India, No. 5356, dated 19th December 1854, gives to Native gentlemen the liberty of conforming, at their option, either to Native or European custom in the matter of wearing shoes. The order refers to entertainments at Government House, but Government see no reason for laying down any other ‡rule for Government offices :—

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* "There can be no question, I think, that the contracts which the Collector has forwarded are not such as are contemplated by Act XIII of 1859, and that the Collector as Magistrate rightly declined to render the creditor any assistance under that Act. If, as is stated by the Revenue Commissioner, there is reason to believe that other Magistrates do recognize and enforce such bonds, it is certainly, I think, desirable in the interests of the poorer classes that they should be reminded that that Act applies only to *bonâ fide* contracts for specific work entered into by *artificers, workmen and labourers,* who receive part payment in advance, and subsequently seek to evade their agreement. It is contrary to public policy and to humanity to enforce such bonds as those forwarded by the Collector in which in order to work out a trifling debt a man binds himself and his family to perform any kind of service by night or by day for periods of 12 or 15 years. No Civil Court would give effect to such contracts.

"2. I know of no law under which the person in whose favour these bonds have been executed can be punished. If the invalidity of such agreements becomes known, they will no doubt be soon discontinued." (Mr. Naylor's Report No. 496 of 1874, embodied in Government Resolution, Judicial Department, No. 6671, dated 24th November 1874.)

‡ In their Resolution No. 514 dated 19th March 1869, the Government of India in the Foreign Department ruled that all Natives of India wearing boots or shoes of European fashion may appear thus habited before all the servants of Government, in all places within the Bengal Presidency and its dependencies, on all official or semi-official occasions, including Darbárs of all descriptions, and that in the case of Natives wearing shoes of Indian fashion, the old social practice whereby such shoes must be taken off within the customary limits, will be maintained by the servants of Government in their official or semi-official capacities. In Government Resolution, Judicial Department, No. 722, dated 20th April 1868, it was directed that these rules should be held in force in this Presidency.

"In order to remove doubts the Governor General in Council is pleased to issue the following Regulations :—

All Native gentlemen who may attend Darbars either in the Government House or in camp will conform to Native custom, and will accordingly be required to leave their shoes at the door.

All Native gentlemen attending entertainments at Government House, &c., will be at liberty to conform, at their option, either to Native or to European custom.

If they prefer the Native custom and wear Native shoes, they will be required to leave their shoes at the door. If they adopt the European custom and wear European shoes, they will be so admitted."

(G. R. No. 1392, dated 13th April 1864.)

IV.—POISONS.

1. Under Section XXI of Bombay Act VIII* of 1866, the Right Honourable the Governor in Council is pleased to extend the provisions of that Act to the Province of Sind and to declare that the duties assigned thereby shall be performed by the several Collectors and Political Superintendents in Sind and that the proceeds of license fees and fines shall, after the payment of the expenses incurred in carrying out the provisions of such Act, be credited in towns into which Act XXVI* of 1850 has been introduced to the Municipal, and in other places to the Local Funds. (G. N. dated 14th June 1867.)

* An Act to regulate and restrict the sale of poisons in the Bombay Presidency.

* Repealed by Act V 1873.